

WASHINGTON ASSOCIATION OF SHERIFFS & POLICE CHIEFS

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Serving the Law Enforcement Community and the Citizens of Washington

April 26, 2011

Clerk of the Supreme Court
Temple of Justice
Post Office Box 40929
Olympia, Washington
98504-0929



Dear Justices of the Supreme Court:

The Washington Association of Sheriffs and Police Chiefs (WASPC) would like to express our concerns regarding the creation of proposed CrR 4.11 and CrRLJ 4.11. We believe these rules would directly and negatively impact law enforcement procedures and the well-being of crime victims, and we hope you will give these concerns consideration during this public comment period.

We believe one of law enforcement's paramount duties is to treat crime victims with dignity and respect. This is supported by Article I, Section 35 of the Washington State Constitution, which provides that victims be given "due dignity and respect." This encompasses providing a victim the ability to consent or refuse a recording of an interview during what is often a particularly traumatic time. Of particular concern are those victims of sexual assault or domestic violence.

WASPC is concerned that the mandatory nature of the rule will have a deleterious effect on law enforcement interviews and the interview process because a witness might very well be intimidated knowing that the interview is being recorded. It will also mean that all parties, including actual perpetrators, will have copies of the recordings. This has the very real potential of retraumatizing the victim by allowing the perpetrator to have and potentially share the actual details of the crime from the victim in a vulnerable state. In this age of near-instant technological dissemination, once an audio recording is out it is nearly impossible to retain privacy. This is already an issue with photographic and paper evidence.

It is also unclear to us whether these recordings would be automatically exempt from public disclosure under RCW 42.56.240. This has the potential to have a serious chilling effect on victims' willingness to participate in and cooperate in an investigation.

For the aforementioned reasons we urge you to not adopt CrR 4.11 and CrRLJ 4.11 as currently drafted.

Sincerely,

Donald G. Pierce
Executive Director

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